IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

MFA.No. 545 of 2002()

OP(MV).1158/1993 of MOTOR ACCIDENTS CLAIMS TRIBUNAL, MAVELIKKARA.
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APPELLANT: PETITIONER

SREEVALSAN PILLAI, AGED
S/O.SIVARAMA PILLAI, KUMBAZHA HOUSE,
EREZHA SOUTH, PERINGALA VILLAGE,
ALAPPUZHA DISTRICT.

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENTS: RESPONDENTS
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1. **HARIKUMAR, S/O.ANANDAN,**
   PUTHENVEETTIL, CHINGOLI VILLAGE,
   ALAPPUZHA DISTRICT.

2. **MURALEEDHARAN, S/O.VELAYUDHAN,**
   KALPAKAM HOUSE, CHEPPAD P.O.,
   ALAPPUZHA DISTRICT.

3. **THE UNITED INDIA INSURANCE CO LTD.,**
   REPRESENTED BY ITS MANAGER,
   KAYAMKULAM BRANCH.

BY ADV. SRI.K.HARILAL
SRI.P.V.JYOTHI PRASAD

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 02/11/2007 , THE COURT ON the SAME DAY DELIVERED THE FOLLOWING:

tss

J.B. KOSHY & K.HEMA, JJ.

M.F.A.No.545 of 2002

Dated this the 2nd day of November, 2007

Judgment

Koshy,J.

Appellant/Claimant met with a motor accident by which he lost his hearing capacity to the extent of 70 dB. He claimed a compensation of Rs.Two lakhs. Total compensation awarded by the tribunal was only Rs.35,110/- even though tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company. It is true that as a result of the accident sensory neural deafness of left ear was caused and there was a loss of hearing function in that ear as can be seen from various certificates produced by the appellant. The tribunal accepted the same and awarded an amount of Rs.20,000/- towards disability. It has come out in evidence that he was aged 35 and he was employed in Water Authority. His employment was not affected and, therefore, compensation cannot be granted on a multiplier method as the compensation is intended to offset the damages caused in the accident. Compensation granted is just and reasonable. However, we note that he was in hospital for eight days

and he was under treatment for one month. Only actual medical bills were reimbursed. Only Rs.1,250/- was awarded towards medical expenses and bystander's expenses. Another Rs.5,000/- can be awarded under the head medical expenses and bystander's expenses. We are of the opinion that another Rs.3,000/- can be given for treatment expenses. The above additional amount of Rs.8,000/- shall be deposited by the third respondent insurance company with 7.5% interest from the date of application till deposit. Since there was violation of the policy conditions, appellant insurance company, as directed by the tribunal, is entitled to recover the amount from the insured.

The appeal is allowed partly.

J.B.KOSHY
JUDGE

K. HEMA
JUDGE

vaa

J.B. KOSHY AND
K.HEMA,JJ.

M.F.A. No. 545 of 2002

Judgment

Dated:2nd November, 2007